

## **19-719 SEPARATION FROM STATE SERVICE**

### **SCOPE AND PURPOSE**

This Regulation governs how the State government employment relationship may end.

### **19-719.01 CONTINUOUS SERVICE AND BREAK IN SERVICE**

#### **A. Continuous Service**

Continuous service is service with one or more agencies without a break in service.

#### **B. Break in Service**

An employee experiences a break in service when the employee:

1. Separates from State service and is paid for unused annual leave.

Exception - When an employee moves from a position in which the employee earns both annual and sick leave to a position in which the employee only earns sick leave. All earned sick leave shall be transferred in accordance with Section 19-710.05 A.

2. Moves from one State agency to another and is not employed with the receiving agency within 15 calendar days following the last day worked (or approved day of leave) at the transferring agency.

Exception - Under extenuating circumstances an agency head may request an extension from 15 calendar days up to but not in excess of six months for an employee in a full-time equivalent (FTE) position to be employed in another FTE position within State government without having a break in service. Such requests require approval by the State Human Resources Director. The request must be made prior to the employee receiving a lump sum payment for unused annual leave and within 15 days of the last day the employee is in pay status.

3. Remains on leave for a period of more than one calendar year.

#### **Exceptions**

- a. The employee is on a military tour of duty with reemployment rights protected under federal or State law.
- b. The employee is participating in the Government Employees Interchange Program as provided in Section 19-714.
- c. The employee is on disability leave without pay that has been extended by the Office of Human Resources (OHR).

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- d. The employee is an academic personnel at an institution of higher learning on sabbatical leave.
4. Separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated with State government within 12 months of the effective date of the separation.
5. Involuntarily separates from State service and the agency's decision is upheld by the State Employee Grievance Committee or by the courts.
6. Moves from an FTE position to a temporary, temporary grant, or time-limited position.

Exception - When an employee in an FTE position moves to a temporary, temporary grant, or time-limited position within 15 calendar days following the last day worked (or approved day of leave) during the employee's TERI program period, he does not experience a break in service. (*Refer to Section 19-719.01 B. 1. b.*)

### **19-719.02 RESIGNATION**

- A. An employee may resign orally or in writing. Such notification of resignation should be accepted by the agency in the same manner as provided, whether written or oral, and an oral acceptance of a resignation should be generally confirmed in writing. Once an employee's resignation is accepted, it may not be withdrawn, cancelled, or amended without consent of the agency head or his designee.
- B. Resignations should be given to provide a minimum of two weeks notice.
- C. Any employee who voluntarily submits a written resignation may not grieve or appeal under the State Employee Grievance Procedure Act.

### **19-719.03 TERMINATION**

For purposes of the State Employee Grievance Procedure Act, termination is the action taken by an agency against an employee to separate the employee involuntarily from employment.

### **19-719.04 REDUCTION IN FORCE**

- A. Statements of Policy
  1. The Office of Human Resources shall develop a reduction in force model policy to assist an agency in its policy development. The Office of Human Resources must review and approve each agency's reduction in force policy.
  2. Each agency shall develop a written reduction in force policy. This requirement shall

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not apply to academic personnel. However, each institution of higher learning or medical institution of education and research shall develop a policy outlining the criteria for a reduction in force for these employees.

3. Technical colleges are required to have a reduction in force policy.
4. Employees on authorized leave are eligible to compete in a reduction in force as if they are not on leave.
5. When a covered employee is assigned lower level responsibilities or demoted as a result of a reduction in force implemented due to budgetary reductions, the employee's salary may be reduced on the effective date of the reduction in force. The agency head or his designee, at his discretion, may reduce the employee's salary to a salary either between 0%-15% below the employee's current salary or between the employee's current salary and the midpoint of the lower pay band. In exercising this discretion, the agency head or his designee may use the option which results in the greatest cost savings.

(Note: Regulation 19-719.04 A. 5. only applies to decreases in salary as a result of a reduction in force implemented due to budgetary reductions and is an exception to salary decreases when a covered employee is assigned lower level responsibilities or demoted as listed in Sections 19-705 and 19-706.)

### B. Reduction in Force Plan

1. Each agency shall submit a reduction in force plan to OHR for review and approval for procedural correctness prior to its implementation.
2. A reduction in force plan must include:
  - a. A reason for the layoff as defined by the agency. These circumstances shall be either agency reorganization, work shortage, or loss of funding. If the reason for the reduction in force is that the agency can no longer meet its personal services budget, OHR will forward a copy of the plan to the Office of State Budget for concurrence on the budgetary issue prior to final approval.
  - b. The competitive area(s) in which the reduction in force will apply. Competitive area(s) shall be determined by the agency according to critical needs. Any covered employee affected by a reduction in force shall have bumping rights within a competitive area(s).
  - c. The competitive group(s) within the competitive area(s) as defined by the agency including any employees in specified competitive area(s).
  - d. The proposed list of employees to be affected by the reduction in force which

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includes:

- (1) The age, race, and sex of all employees in the competitive group(s); and
  - (2) A preliminary list of employees in each group in retention point order.
- e. The efforts that will be made to assist laid off employees to find other employment, including notice to OHR.
  - f. A current organizational chart showing the competitive area(s) and competitive group(s).
  - g. Justification of the use of any special exceptions as provided in the agency's reduction in force policy.

### 3. Implementation

After a reduction in force plan is reviewed and approved by OHR for procedural correctness and before it becomes effective, an agency representative shall inform affected employees of the following:

- a. The reason for the reduction in force;
- b. The competitive area(s) and competitive group(s);
- c. The effects of the reduction in force upon State benefits;
- d. The assistance offered by OHR;
- e. The employee's recall rights; and
- f. The method of notification should a job become available.

### 4. Reduction in Force Rights

- a. Any covered employee affected by a reduction in force shall retain covered status and recall rights for a period of one year from the date of separation.
- b. Employees who are affected by the reduction in force shall be recalled in inverse order based on retention points should a position become available within the competitive area.
- c. A covered employee who is separated due to a reduction in force shall retain continuous service if the employee is reinstated within one year from the date of separation.

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- d. An employee who is separated by an agency by a reduction in force and is subsequently reinstated within one year shall have his sick leave restored and shall be given the option of buying back all, some, or none of his annual leave at the rate at which it was paid out.

### 5. Grievance Rights

A covered employee who is affected by a reduction in force may grieve or appeal the reduction in force under the State Employee Grievance Procedure Act if the appeal is based on inconsistent or improper application of a reduction in force policy or plan.

### **19-719.05 EXIT INTERVIEWS**

- A. Each agency should establish a procedure for obtaining separation information from each employee who separates from State service. This procedure should include an exit interview form to reflect the specific reasons for the employee's separation. A reasonable effort should be made to interview the employee to obtain the information.
- B. Each agency should maintain and summarize a general file on all exit interviews for review by management.

### **19-719.06 ANNUAL AND SICK LEAVE UPON SEPARATION**

- A. Section 19-709.05 explains the applicable annual leave provisions when an employee separates from State service.
- B. Section 19-710.06 explains the applicable sick leave provisions when an employee separates from State service.

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